California Regional Water Quality Control Board
North Coast Region
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Agency Secretary

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Arnold Schwarzenegger
Governor

May 11, 2005

Mr. Chris Peterson
Rivendale Homes
1160 North Dutton Avenue, Suite 240
Santa Rosa, CA 95401

Dear Mr. Peterson

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Montage Residential Subdivision Project - Phases 1 and 2, Santa Rosa, Sonoma County

File: Montage Residential Subdivision Project - Phases 1 and 2
Sonoma County, WDID No. 1B01098WNSO

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). On August 13, 2001 the Regional Water Board received an application from Mr. Larry Stromberg, Ph.D., wetlands consultant, on behalf of Mr. Chris Peterson of Rivendale Homes, requesting Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for Montage Residential Subdivision Project - Phases 1 and 2.

On April 25, 2003, the Regional Water Board issued a Denial without Prejudice to Mr. Peterson for the proposed project, due to the lack of the following items required to facilitate the complete review process of the application package and finalize a decision for Certification:

- A wetland mitigation and monitoring plan,
- Further information about the plant and animal species on the site,
- Proof of purchase of wetland mitigation credits at an approved wetland mitigation bank to offset all impacts to wetland habitat on the project site.
- A completed CEQA document.

On July 6, 2004 a new application with supporting materials was submitted to the Regional Water Board by Mr. Stromberg, on behalf of Mr. Peterson, however the application lacked the appropriate documentation and required fees for application submittal. On August 16, 2004, an additional application packet was submitted, with a $500 deposit, however, Regional Water Board staff determined that the application was lacking necessary documentation required for a Regional Water Board action.

On January 6, 2005, the Regional Water Board issued a *Request for Additional Information* to Mr. Peterson, which outlined four items that were lacking from the application packet. On April 1, 2005, the requested information was submitted.

The Regional Water Board received a complete application and processing fee in the amount of $12,964.50 on April 1, 2005. Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website. No comments were received. The proposed project causes disturbances to waters of the state associated with seasonal wetland habitat and the Mark West Hydrologic Subarea Unit No. 114.23 and the Russian River Hydrologic Unit No. 144.20.

Project Description:

The proposed project includes four legal parcels located at 2385 San Miguel Road and 2108 and 2160 Fulton Road, Santa Rosa, Sonoma County, California (APNs 034-041-004, 034-041-005, 034-041-013 and 034-041-014).

The proposed project consists of two phases, on four legal parcels totaling approximately 12.8 acres, of which Montage Phase 1 involves the rezoning of 3.6 acres and subdivision into 28 single family lots with 22 second dwelling units, and Montage Phase 2 involves rezoning 9.2 acres and subdivision into 52 single family lots and 17 triplex lots. Montage Phase 1, which is scheduled to begin construction in summer 2005, consists of parcels 034-041-04 and 034-041-05 and will result in the filling of 1.42 acres of wetland habitat. Montage Phase 2 is scheduled to begin in 2006 and consists of parcels 034-041-13 and 034-041-14 and will result in the filling of 4.61 acres of wetland habitat.

According to Dr. Stromberg, as stated in the "Habitat Quality Evaluation" for the site, the properties have been used for organic farming of crops such as kale, cucumbers, broccoli, bell beans and table lettuce, and for horse pasturage.

According to Dr. Stromberg, the wetlands on the site are extremely variable. During the rainy season, the deepest standing water in the wetlands reaches one foot in depth and the average maximum depth over the whole site is four inches. Despite the previous disturbances that have occurred on the site, the wetland that extends across the Sloan and Bartholomew properties "continues to function as a vernal pool", according to Dr. Stromberg. The deeper parts of this wetland contain Manna Grass and California Semaphore Grass, which are both indicative of long periods of inundation. In the shallower areas Ryegrass, Mediterranean Barley, and Curly Dock are the dominant. Popcorn Flower, Downingia, Water Starwort, Annual Bluegrass, Toad Rush, Purple Loosestrife, and Spiny Buttercup are less dominant.

Mr. Peterson hired two separate consulting firms to conduct two years of CTS protocol surveys, following the guidelines prescribed in the U.S. Fish and Wildlife Service's (USFWS) October 2003 *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander*. No CTS were found during the two years of protocol surveys conducted by Monk and Associates, Inc. and Jennings and Padgett-Flohr. Therefore, the USFWS determined that the construction of the project will not affect or result in "take" of the CTS.

Receiving Water: Seasonal wetland habitat and the Mark West Hydrologic Subarea Unit No. 114.23 and the Russian River Hydrologic Unit No. 144.20.

Filled or Excavated Area:

Total Area Impacted: 6.03 acres
Area Temporarily Impacted: 0.0 acre
Area Permanently Impacted: 6.03 acres

Total Linear Impacts: 0.0 linear feet impacted
Length Temporarily Impacted (Restored): 0.000 feet
Length Permanently Impacted (Not Restored): 0.000 feet

Federal Permit: The applicant has applied for a U.S. Army Corps of Engineers (ACOE) Clean Water Act Section 404 permit (File Number 26714N). On March 24, 2005, the ACOE initiated formal Section 7 consultation with the USFWS pursuant to 50 CFR 402.13 of the Endangered Species Act (1973, as amended) concerning the federally listed California tiger salamander (*Ambystoma californiense*) (CTS), many-flowered navarretia (*Navarretia leucocephala* ssp. *Plieantha*), Sonoma sunshine (*Blennosperma bakeri*), Sebastopol meadowfoam (*Limnanthes vinculans*) and Burke's goldfields (*Lasthenia burkei*) for the above mentioned project.

The USFWS issued correspondence on March 3, 2005 indicating that the USFWS has determined that the construction of the project will not affect or result in "take" of the CTS. Therefore, the ACOE is initiating consultation on the above listed plants, and not the CTS.

State and Local Approvals: Due to the absence of streams on-site, the California Department of Fish and Game will not require a Lake and Streambed Alteration Agreement for the proposed project.

Compensatory Mitigation: To compensate for the loss of 6.03 acres of wetland habitat, the mitigation plan prepared by Dr. Larry Stromberg proposes to create and enhance wetland habitat on the Slippery Rock Mitigation Site (WDID No. 1B04122WNSO) off Hall Road in Santa Rosa, Sonoma County (APN 130-010-053). The applicant proposes to create and enhance all wetland habitat on Slippery Rock for the entire mitigation requirements of both Phase 1 and Phase 2 during the summer of 2005, concurrent with the construction of Montage Phase 1. Therefore, the wetland impacts for Montage 1 (1.43 acres) will be mitigated at a 1.5:1 ratio (2.14 acres).

Wetland impacts for Montage Phase 2 (4.61 acres) will be mitigated at a 1:1 ratio (4.61 acres), by having the habitat at Slippery Rock already established and shown to have a year of successful hydrology.

If successful wetland hydrology on Slippery Rock is demonstrated after the first winter season, Montage Phase 2 will be allowed to proceed. However, if success is not demonstrated the mitigation ratio for Montage 2 would be 1.5:1, rather than 1:1, thus a requirement of a total acreage of wetland mitigation 6.91 acres for Montage Phase 2. Therefore, the total mitigation requirement for Montage Phases 1 and 2 are 6.75 acres with demonstrated success in Year 1, or 9.05 acres if success is not demonstrated in Year 1.

Overall, to mitigate for the loss of 6.03 acres of wetland habitat on the Montage Phases 1 and 2, the applicant proposes to create 5.69 acres of wetlands and enhance 2.48 acres of wetlands. Based on the March 15, 2005 revised application of the Habitat Quality Evaluation (HQE), The *Training Manual to Evaluate Habitat Quality of Vernal Pool Ecosystem Sites in Santa Rosa Plain* (December 1998), enhancing 2.48 acres of existing wetland habitat will result in 1.31 acres of creation credit, available to offset creation wetland mitigation requirements for Montage Phase 2. This approach is consistent with the determination of available creation credits for all wetland mitigation banks on the Santa Rosa Plain, as reviewed and approved by the Mitigation Banking Review Team (MBRT).

The preservation wetland mitigation requirements will be satisfied for Sonoma sunshine and Burke's goldfields by the establishment of populations of both species at the 13.0 acre Woodbridge Preserve, located at 2290 Fulton Road, Santa Rosa, Sonoma County (APNs 034-030-072 and 034-030-081), as agreed upon by the USFWS.

Therefore, Mr. Peterson will receive a total of 7.0 acres of wetland creation credit for the mitigation efforts undertaken at the Slippery Rock Mitigation Site, of which 6.75 acres will be used for Montage Phases 1 and 2, leaving approximately 0.25 acres available to Mr. Peterson for future mitigation needs.

Noncompensatory Mitigation:

Non-compensatory mitigation measures have been incorporated into the project to reduce the potential impacts to water quality from the project. Work will be completed during the dry season to avoid sediment discharges to surface waters. Erosion control Best Management Practices (BMPs) will be incorporated into the project to reduce the potential for sediment and turbid discharges to surface waters.

In addition, to deal with the Regional Water Board's requirement to provide post-construction storm water treatment for the proposed project, Mr. Peterson hired Carlile-Macy Civil Engineers to create Standard Urban Storm Water Mitigation Plan's (SUSMP) for Montage Phases 1 and 2, which were completed January 2005 and April 2005, respectively. The plans for post-construction stormwater treatment were submitted to the Regional Water Board on April 1, 2005 for review and approval.

The *Montage 1 Santa Rosa, CA BMP Calculations, January 2005* SUSMP includes incorporation of bioswales as its primary function for maintaining treatment of storm water runoff from the developed site. In addition, Hollywood driveways will be used to help decrease overall impervious surfaces on the development. Three bioswales will be located in the 8-foot wide landscape strip along San Miguel Avenue. Storm water runoff will sheet flow through the site to San Miguel Avenue and will enter the landscape strip and swale through curb openings. The runoff will then travel approximately 75-feet through the swale to a field drain located in the landscape strip. The swales were designed according to calculations used to determine the size needed to treat the runoff from the 85th percentile storm event. In addition, all stormdrain inlets will be labeled with the "no dumping – drains to creek" stencils.

The *Standard Urban Storm Water Mitigation Plan – Montage II Subdivision, April 2005* SUSMP Includes stormdrain labeling, biorentention for 85percent of street runoff, landscape bioswales for all runoff coming off San Miguel Avenue, and individual lot bioswales. All catch basins will be labeled with the City of Santa Rosa approved "No Dumping – Drains to Creek" labeling. All private backyard drains will also be labeled with the same phrase. As an alternative to a stormdrain treatment unit, Montage 2 shall incorporate bioretention as a means for treating the storm water runoff from the development streets. Treatment will occur within a 6-foot wide landscape strip between the street and sidewalk, which will eventually discharge to the stormdrain system through a 4-inch perforated pipe at the bottom of a sandy soil mix. According to the SUSMP, due to poor soil conditions on-site (i.e. high clay content), this area will be excavated and a sandy soil mix will be imported into the biorention area according to Low Impact Development Guidelines.

Runoff from San Miguel Avenue will be treated within the landscape strip that fronts San Miguel, and runoff will be directed to the bioswale through 3-inch curb openings. All lot drainage will be directed to a series of lot bioswales to be treated prior to entering the stormdrain system. As stated above for Montage 1, all bioswales were designed according to calculations used to determine the size needed to treat the runoff from the 85th percentile storm event.

CEQA Compliance: The City of Santa Rosa Department of Community Development, as the lead agency for this project under the California Environmental Quality Act (CEQA), prepared Mitigated Negative Declarations for Montage 1 and Montage 2, pursuant to the CEQA (Resolution Numbers 10542 and 10572, respectively).

Standard Conditions: Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.

2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal

Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions: Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

1) The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of grading work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.

2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

3) BMPs for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.

4) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.

5) If, at any time, a discharge to surface waters occurs, or any water quality problem arises, the project shall cease

immediately and the Regional Water Board shall be notified promptly.

6) The overall design and development of Montage Residential Subdivision Project - Phases 1 and 2 shall include the post-construction storm water BMPs outlined in the *Montage 1 Santa Rosa, CA BMP Calculations, January 2005* and *Standard Urban Storm Water Mitigation Plan – Montage II Subdivision, April 2005* that have been prepared by Carlile-Macy Civil Engineers for incorporation into the project to mitigate for storm water discharges associated with post-development of the site. BMPs shall be implemented into the project, as proposed by the project applicant and Carlile-Macy, and as outlined above in the Non-compensatory mitigation section of this order.

7) Yearly monitoring reports for the required compensatory mitigation shall be provided to the Regional Water Board by July 15 during each calendar year for a total of five years. Reports shall include photo documentation of the Slippery Rock mitigation area. After five years have passed, the mitigation will be evaluated for successful attainment of the final success criteria, and a decision will be made whether additional mitigation measures are necessary to insure that no net loss of wetland habitat occurs. Reports shall be prepared by a professional consultant with in-depth experience in wetland ecosystem creation and function, as well as wetland mitigation monitoring techniques. Reports shall be submitted to the attention of staff member Andrew Jensen.

8) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by

the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

9) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.

10) Montage Phase 2 shall not proceed until successful wetland hydrology has been shown for the created wetland habitat on Slippery Rock Mitigation Site. A report shall be submitted to Andrew Jensen for concurrence prior to initiation of Phase 2. If successful wetland hydrology has not been demonstrated, and Rivendale Homes chooses to proceed with Montage Phase 2, the mitigation ratio would be at least 1.5:1, rather than 1:1, thus a requirement of a total of 6.91 acres of created wetland mitigation would be required for Montage Phase 2. Therefore, the total mitigation requirement for Montage Phases 1 and 2 are 6.75 acres with demonstrated success in Year 1, or 9.05 acres if success is not demonstrated in Year 1.

Water Quality Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that the authorized discharge from the Montage Residential Subdivision Project - Phases 1 and 2, Sonoma County, (WDID No. 1B01098WNSO) will comply with the applicable provisions of Sections 301 (“Effluent Limitations”), 302 (“Water Quality Related Effluent Limitations”), 303 (“Water Quality Standards and Implementation Plans”), 306 (“National Standards of Performance”), and 307 (“Toxic and Pretreatment Effluent Standards”) of the Clean Water Act [33 USC Subsection 1341 (a)(1)] , and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (enclosure). Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed

in strict compliance with the applicant's project description, and; b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on October 15, 2010. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Andrew Jensen of our staff at (707) 576-2683 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine E. Kuhlman
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification ___

cc: Mr. Larry Stromberg, Ph.D., Wetland Consultant, 59 Jewell Street, San Rafael, CA 94901

Ms. Katerina Galacatos, U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street, San Francisco, CA 94105

Mr. Vincent Griego, Sacramento Field Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room 2605, Sacramento, CA 95815

Mr. Blake Hillegas, City of Santa Rosa Department of Community Development, 100 Santa Rosa Avenue, P.O. Box 1678, Santa Rosa, CA 95402-1678